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MELODIE A. VIRTUE

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SEP 24 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

September 24, 1993

OUR FILE NO.  
0260-101-63

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

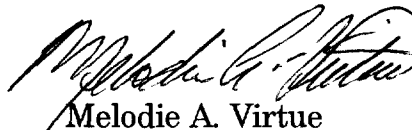
RE: MM Docket No. 93-221  
RM-8265  
East Wenatchee, Ephrata, and  
Chelan, WA

Dear Mr. Caton:

Transmitted herewith, on behalf of Northcentral Broadcasting, are an original and four copies of its **OPPOSITION TO ORDER TO SHOW CAUSE AND COUNTERPROPOSAL** in the above-referenced rulemaking proceeding.

Should further information be required regarding this matter, please communicate directly with this office.

Very truly yours,



Melodie A. Virtue

Enclosures (5)

MAV/blr

DOCKET FILE COPY ORIGINAL

Before The

RECEIVED

**Federal Communications Commission**

Washington, D.C. 20554

SEP 24 1993  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

)  
)  
Amendment of Section 73.202(b)  
Table of Allotments,  
FM Broadcast Stations.  
(East Wenatchee, Ephrata, and  
Chelan, Washington)

) MM Docket No. 93-221  
) RM-8265  
)  
)  
)

TO: Chief, Allocations Branch

**Opposition to Order to Show Cause  
and Counterproposal**

Northcentral Broadcasting ("Northcentral"), licensee of KOZI-FM, Chelan, Washington, by counsel and pursuant to Sections 1.87 and 1.420(g) of the Commission's Rules, hereby respectfully opposes the *Notice of Proposed Rule Making and Order to Show Cause*, DA 93-947, released August 4, 1993 (*NPRM*), and proposes the following counterproposal:

City	Channel No.	
	Present	Proposed
Chelan, WA	228A	234A

In support thereof, the following is submitted:

1. At the request of Petitioner Hartline Broadcasters, the Commission proposes to add Channel 229C2 to East Wenatchee, Washington, as that community's second local service. For that new allotment to meet the FCC's minimum spacing requirements, Petitioner has asked for the deletion of Channel 230C2 at Ephrata, Washington, and for the substitution of Channel 238A for 228A at Chelan, Washington. As Northcentral currently operates Radio Station KOZI-FM on Channel 228A

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at Chelan, the *NPRM* requests that Northcentral submit a written statement showing why its license should not be modified as proposed.

2. Northcentral opposes the *NPRM* because it prefers to have Channel 234A instead of Channel 238A substituted at Chelan. The engineering statement attached as Exhibit 1 hereto shows that Channel 234A can be allotted to Chelan, Washington, and meets the technical requirements of the Commission's rules. Channel 234A can also be used from KOZI-FM's existing site. Channel 234A is closer in frequency to KOZI-FM's existing operation on Channel 228A than is Channel 238A proposed in the *NPRM*. KOZI-FM's listeners, therefore, would not have to search as far up the dial to find KOZI-FM's signal once the change is effectuated. Further, a lower channel allotment is more efficient in terms of electrical consumption than a higher channel. Substitution of Channel 234A for proposed Channel 238A, or even for KOZI-FM's existing channel, provides Northcentral with greater technical flexibility to improve its service in the future. Consequently, Northcentral strongly prefers the substitution of Channel 234A in lieu of Channel 238A as proposed in the *NPRM*.

3. It should be noted that Petitioner proposed the deletion of vacant Channel 230C2 at Ephrata, Washington. The *NPRM* stated that Channel 230C2 would be deleted if no applications were filed for that allotment by the comment deadline in this proceeding. On the same date that the *NPRM* was adopted, July 21, 1993, counsel for Petitioner filed a "first-come, first-served" application on behalf of TRMR, Inc., for Channel 230C2 at Ephrata.<sup>1</sup> *Public Notice* Report No. 15591, released August 10,

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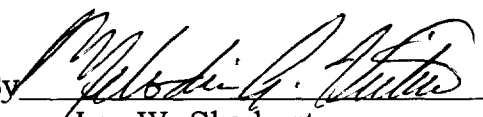
<sup>1</sup> A copy of the transmittal letter for the TRMR, Inc., application is attached as Exhibit 2.

1993 (FCC File No. 930721MC). The substitution of Channel 234A at Chelan, however, does not conflict with TRMR's pending application.<sup>2</sup> Thus, the Commission can still proceed to substitute Channel 234A for Channel 228A at Chelan regardless of its resolution of Petitioner's proposal.

WHEREFORE, the premises considered, Northcentral Broadcasting respectfully requests that the Commission amend the FM Table of Allotments to reflect the allotment of Channel 234A in lieu of Channel 228A at Chelan, Washington, and that it modify the license of KOZI-FM to specify operation on Channel 234A.

Respectfully submitted,

NORTHCENTRAL BROADCASTING

By   
Lee W. Shubert  
Melodie A. Virtue

HALEY, BADER & POTTS  
4350 North Fairfax Drive, Suite 900  
Arlington, VA 22203-1633  
703/841-0606

September 24, 1993

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<sup>2</sup> Commission policy has been not to delete a channel in which an expression of interest, in the form of an application, has been filed. *See, e.g., FM Channel Assignments (Marlboro, Vermont)*, 8 FCC Rcd. 2943 (1993). Nevertheless, it is not entirely clear from the FCC's procedures for resolving conflicts between applications and rulemaking petitions that a subsequently-filed application cuts off a previously-filed petition for rulemaking. *Conflicts Between Applications and Petitions for Rulemaking to Amend the FM Table of Allotments*, 7 FCC Rcd. 4917 (1992), *modified in part*, 8 FCC Rcd. 4743 (1993). On modification, the Commission indicated that counterproposals that protected the site of the previously filed application would be considered if filed within 15 days of the notice routinely issued by the FCC staff regarding the filing of counterproposals. *See* 47 C.F.R. § 73.208(a) Note. Northcentral does not believe that the TRMR application has appeared on the routine public notice of counterproposals as of this writing. In any event, Northcentral's proposal for Channel 234A does not impact the Channel 230C2 allotment at Ephrata.

EXHIBIT 1

ENGINEERING EXHIBITS

A REQUEST TO AMEND SECTION  
73.202(b), FOR ALLOCATION OF  
FM CHANNEL 234A TO  
Chelan, Washington

APPLICANT:

North Central Broadcasting  
Chelan, Washington

KENNETH WILLIAMS, Jr., P.E.  
CONSULTING ENGINEER

P.O. BOX 7703  
TACOMA, WA 98407

(206) 756-7544

## GENERAL ENGINEERING STATEMENT

The following Engineering data supports a request of North Central Broadcasting, Chelan, Washington to amend the table of FM channel allotments. Allotment of channel 234A to Chelan, Washington is proposed.

As proposed herein channel 234A will not be in conflict with any presently assigned or allotted channels. Results of this assignment will not cause short spacing to existing or proposed stations in the U.S. or Canada, thus permitting us to request change in the FM Table of FM Allotments in section 73.202(b) of the Commissions Rules.

### THE PROPOSED CHANGE IN THE RULES ARE:

Chelan, Washington

Existing  
228A

-----  
Proposed  
234A

All distance figures used in this report are metric and distance calculations were made using methods specified in Section 73.208 of the FCC Rules.

As shown on the following pages, all channel spacings are within the Commission's current minimum separation requirements at the petitioner's proposed transmitter site.

Another consideration were the 10.6-10.8 mHz. spacings. These channels, 287 and 288 were searched out to a distance of 100 km. Print out of this information is shown as figure No. 2.

The present KOZI-FM transmitter site is the site we propose to use on the new channel of 234A. This is a proven site, and on the basis of effective radiated power and antenna height above average terrain, a minimum field of 3.16 mV/m will be provided over the entire principal community of Chelan, Washington.

The transmitter site is not located in a populated are, thus blanketing interference should not be a great factor.

There are no major obstructions on the city radial of 263° true. Which results in line-of-sight from the antenna over the principle city to be served.

No change in other channel assignments are required to make channel 234A allotment to Chelan, Washington. On the following pages are figures and exhibits which support our request.

\*\*\*\*\*

CLASS A FM CHANNEL STUDY

\*\* CHANNEL 234 \*\*

FIGURE No. 1

REFERENCE SITE - Chelan, Washington

N. 47 51 7 W. 119 52 18

CHANNEL	CALL	Owner/Applicant	(m)	(kw)	(m)	(deg)	(km)
& CLASS	STATUS	CITY	Horz->AHAAT/ERP/AMSL	LATITUDE	AZIMUTH	DIST	
		STATE	FILE No.	Vert->AHAAT/ERP/AMSL	LONGITUDE	[ MARGIN ]	
94.1 Mhz. Professional Broadcasting, Incorporated							
231 C	KMPSEFM	Seattle	714 57. 940	47-30-14	256.2	162.5	
FM	LIC	WA	BLH 890912KB	714 57. 940	121-58-29	67.5 KM	CLEAR
94.1 Mhz.							
231 A	CBYRFM	Rock Creek	10 .040	49- 2-28	26.2	147.4	
FM		BC	10 .040	118-59-28	110.4 KM	CLEAR	
94.1 Mhz.							
231 A		Salmo		49-11-50	51.9	242.6	
FA		BC		117-17- 4	205.6 KM	CLEAR	
94.1 Mhz. Professional Broadcasting, Incorporated							
231 C	KMPSEFM	Seattle	714 64. 940	47-30-14	256.2	162.5	
FM	APP	WA	BMPH 890727IB	714 64. 940	121-58-29	67.5 KM	CLEAR
94.5 Mhz.							
233 C		Hayden		47-43-54	93.3	235.6	
FA	VACA	ID		116-43-48	70.6 KM	CLEAR	
94.5 Mhz. Goetz Enterprises, Inc.							
233 Cl	KATS	Yakima	277 100. 631	46-31-59	198.1	154.2	
FM	LIC	WA	BLH 840625CS	277 100. 631	120-30-14	21.2 KM	CLEAR
94.5 Mhz.							
233 B		Penticton		49-31-44	5.2	187.2	
FA		BC		119-38-25	55.2 KM	CLEAR	
94.5 Mhz. North Idaho Broadcasting Company							
233 C	KKCH	Hayden	470 100. 1269	47-43-54	93.3	235.6	
FM	APP	ID	BPH 920228IF	470 100. 1269	116-43-48	70.6 KM	CLEAR
94.5 Mhz. North Idaho Broadcasting Company							
233 A	KKCH	Hayden	470 0.23 1269	47-43-54	93.3	235.6	
FM	CP M	ID	BMPH 891004IB	470 0.23 1269	116-43-48	163.6 KM	CLEAR
94.9 Mhz. Columbia Theatre Company							
235 C	KIOK	Richland	381 100. 736	46- 5-47	165.2	201.9	
FM	LIC	WA	BLH 781003AB	381 100. 736	119-11-36	36.9 KM	CLEAR
94.9 Mhz. The University of Washington							
235 Cl	KUOW	Seattle	224 100. 262	47-36-58	261.8	184.5	
FM	LIC	WA	BLH 850715KJ	224 100. 262	122-18-28	51.5 KM	CLEAR

FIGURE No. 1 Cont.

```

=====
CHANNEL CALL      Owner/Applicant      (m) (kw) (m)      (deg) (km)
& CLASS STATUS  CITY      Horz->AHAAT/ERP/AMSL  LATITUDE AZIMUTH DIST.
                STATE FILE No. Vert->AHAAT/ERP/AMSL  LONGITUDE [ MARGIN ]
=====
    94.9 Mhz.
235 C  CBTA FM Trail      445 13.5      49- 5-26  47.8  204.9
    FM      BC      117-49- 8  27.9 KM CLEAR

    95.3 Mhz.  KXLE, Inc.
237 A  KXLE FM Ellensburg -44 1.40  548  47- 0- 0  207.6  106.9
    FM  LIC  WA    BLH 5614 120-31-40  75.9 KM CLEAR

    95.3 Mhz.  Roberts Broadcasting
237 A  KAAR Medical Lake 151 1.30  863  47-34- 0  100.4  175.6
    FM  LIC  WA    BLH 890320KA 151 1.30  863  117-34- 6  144.6 KM CLEAR

    95.3 Mhz.
237 A  CBUB FM Osoyoos   -76 .235      49- 6- 8   8.9  140.7
    FM      BC      -76 .235      119-34-38  103.7 KM CLEAR

    95.3 Mhz.  KXLE, Inc.
237 C2 KXLE FM Ellensburg 410 1.90 1022 46-53-16 201.9  115.5
    FM  CP  WA    BPH 890808IE 410 1.90 1022 120-26-31 60.5 KM CLEAR

    95.3 Mhz.  Blue Sky Broadcasting, Inc.
237 A  KPND Sandpoint  716 .095 1774 48-22-40 76.4  249.0
    FM  APP  ID    BPH 920416IE 716 .095 1774 116-37- 5 218.0 KM CLEAR

```

>>>>> END OF CHANNEL 234 SEARCH <<<<<<

## FIGURE No. 2

## 10.6-10.8 MHz CHANNEL SPACINGS

FM WITHIN 250 km  
 \*\* CHANNELS 287 TO 288 \*\*

REFERENCE SITE - Chelan, Washington

N. 47 51 7 W. 119 52 18

```
=====
Owner/Applicant          (m) (kw) (m)
CHANNEL CALL CITY      Horz->AHAAT/ERP/AMSL LATITUDE (deg) (km)
& CLASS STATUS STATE FILE No. Vert->AHAAT/ERP/AMSL LONGITUDE AZIMUTH DIST
=====
```

105.3 Mhz. Crista Ministries, Inc.

```
287 C1 KCMS Edmonds      220 115. 268  47-46- 6 267.1  185.9
FM LIC WA BLH 910729KS  220 115. 268 122-21- 7
```

105.3 Mhz. Tri-Cities Communications, Inc.

```
287 C KONA FM Kennewick  347 100. 703  46- 5-51 165.2  201.8
FM APP WA BPH 930111ID  347 100. 703 119-11-30
```

105.3 Mhz. Tri-Cities Communications, Inc.

```
287 C KONA FM Kennewick  360 100. 702  46- 5-48 165.2  201.8
FM LIC WA BLH 800528AB  360 100. 702 119-11-36
```

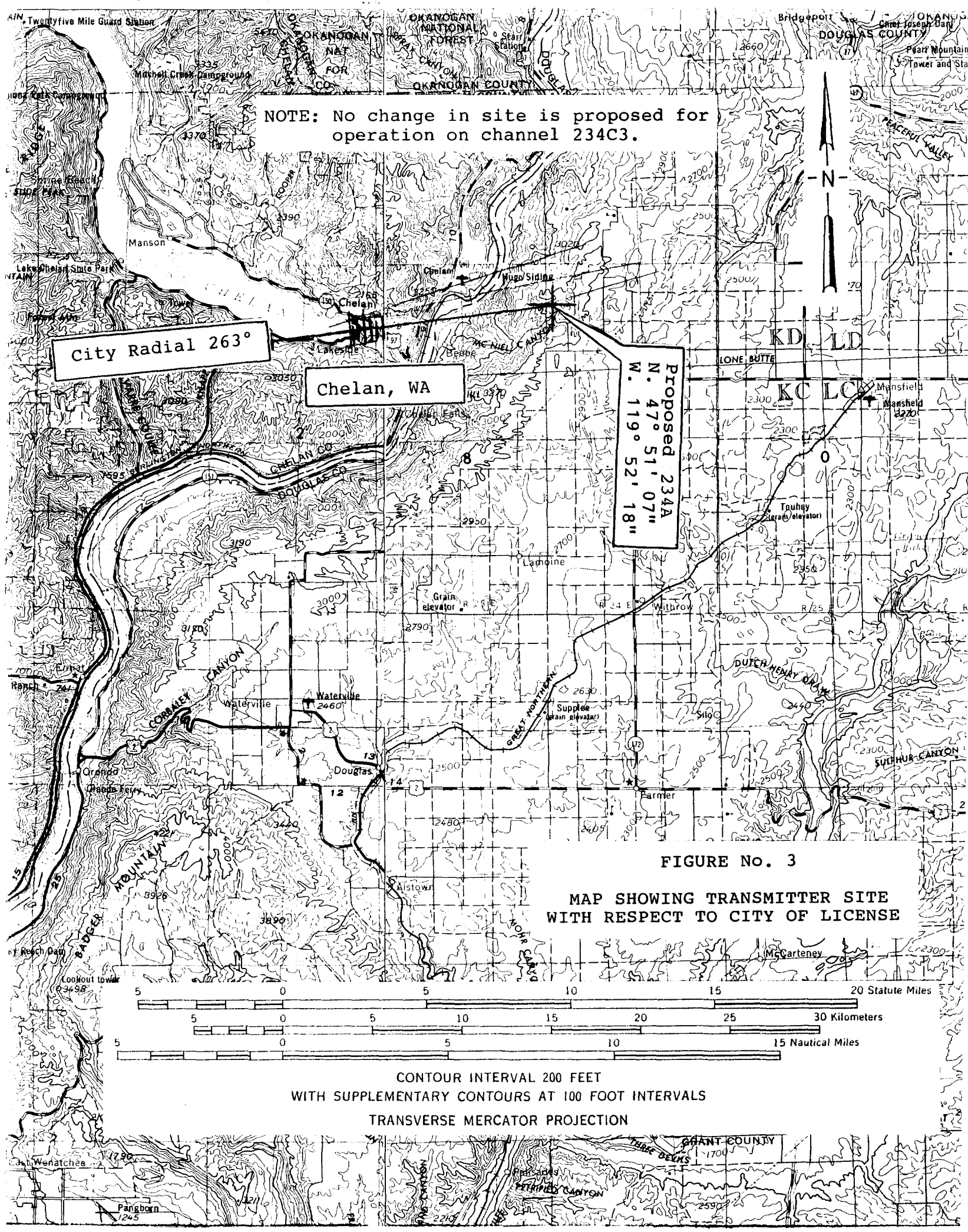
105.3 Mhz.

```
287 A Trail      49- 5-26  47.8  204.9
FM BC           117-49- 8
```

105.5 Mhz.

```
288 A CIGV-2 Princeton  87 .073  49-28-18 344.2  187.2
FM BC           120-33-57
```

&gt;&gt; END OF FM WITHIN 250 km STUDY &lt;&lt;



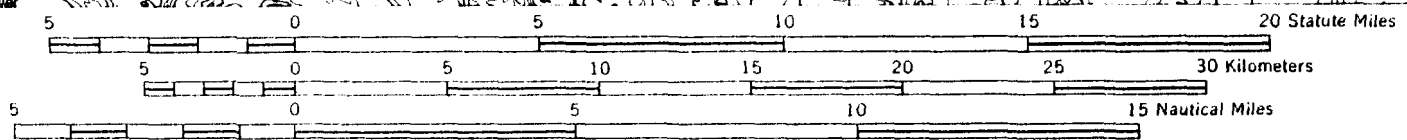
NOTE: No change in site is proposed for operation on channel 234C3.

City Radial 263°

Chelan, WA

Proposed 234A  
N. 47° 51' 07"  
W. 119° 52' 18"

FIGURE No. 3  
MAP SHOWING TRANSMITTER SITE  
WITH RESPECT TO CITY OF LICENSE



CONTOUR INTERVAL 200 FEET  
WITH SUPPLEMENTARY CONTOURS AT 100 FOOT INTERVALS  
TRANSVERSE MERCATOR PROJECTION

ENGINEERS CERTIFICATION

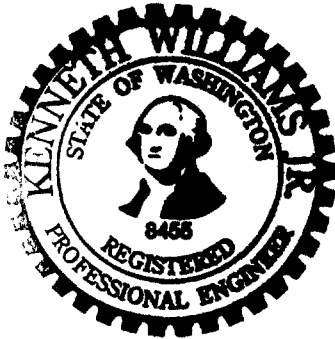
STATE OF WASHINGTON )

) ss

COUNTY OF PIERCE )

Kenneth Williams, Jr., P.E., being duly sworn on his oath, states that he is an experienced and qualified Radio Engineer, licensed as a Registered Professional Electrical Engineer in the States of Washington and Oregon and as such maintains an office for the practice of Electrical and Communications Engineering. Having been in continuous practice as a Consulting Engineer for over 30 years, his qualifications are thus a matter of record with the Federal Communications Commission and the Federal Aviation Administration.

The Engineering data herein, was prepared by him or under his direct supervision and all representation of fact contained in said report is based on affiants measurements, information and belief and he believes all such statements herein to be true and correct.



Kenneth Williams, Jr.  
(Kenneth Williams, Jr., P.E.)  
(affiant)

ENGINEERS STATE SEAL

EXPIRES: 7-15-95

Sworn to before me, Lou Ann Jean Williams a  
Notary Public of Tacoma, Washington, on this 22nd  
day of September, 1993.

My Commission Expires April 4, 1995.

NOTARY STATE SEAL:

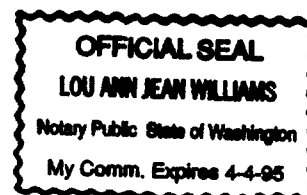


EXHIBIT 2

VINCENY A. PEPPER  
 ROBERT F. CORAZZINI  
 PETER GUTHMAN  
 JOHN F. GARZIGLIA  
 NEAL J. FRIEDMAN  
 ELLEN S. MANDELL  
 HOWARD J. BARR  
 LOUISE CYBULSKI  
 JENNIFER L. RICHTER  
 NOT ADMITTED IN D.C.

# PEPPER & CORAZZINI

ATTORNEYS AT LAW  
 200 MONTGOMERY BUILDING  
 1776 K STREET, NORTHWEST  
 WASHINGTON, D.C. 20006  
 (202) 296-0600

ROBERT LEWIS THOMPSON  
 GREGG P. SKALL  
 E. THEODORE MALLYCK  
 OF COUNSEL  
 FREDERICK W. FORD  
 1809-1886  
 TELECOPIER (202) 296-5572

July 21, 1993

Federal Communications Commission  
 525 William Penn Way  
 Pittsburgh, Pennsylvania 15259-0001

Re: FCC Form 301 Application for  
 FM Channel 230C2 at Ephrata, Washington  
 (First-Come First-Serve)

Dear Sir/Madame:

Transmitted herewith in triplicate on behalf of TRMR, Inc. is an FCC Form 301 application seeking a construction permit for a new station on FM Channel 230C2 at Ephrata, Washington, pursuant to Section 73.3564(d)(4) of the Commission's rules regarding first-come first-serve applications. A filing window for FM Channel 230C2 at Ephrata, Washington closed on May 27, 1993 (see FCC Public Notice, Report No. FM RM-12, released April 22, 1993). The Commission's records do not indicate any application for Channel 230C2 for Ephrata, Washington being filed either during the window or subsequent to the close of the window.

Attached to the original of this application is a check in the amount of \$2,030.00 made payable to the Federal Communications Commission to cover the requisite filing fee. Should any questions arise concerning this matter, please contact this office directly.

Sincerely,

  
 John F. Garziglia

Enclosure

CERTIFICATE OF SERVICE

The undersigned, an employee of Haley, Bader & Potts, hereby certifies that the foregoing Opposition to Order to Show Cause and Counterproposal was mailed this date by First Class U.S. Mail, postage prepaid, or was hand-delivered\*, to the following:

John F. Garziglia, Esquire  
Pepper & Corazzini  
1776 K Street, N.W., Suite 200  
Washington, D.C.  
Counsel for Petitioner

\*Victoria McCauley, Acting Chief  
Allocations Branch  
Room 8318  
2025 M Street, NW  
Washington, DC 20554

  
Barbara L. Rascon

September 24, 1993